

DATE: November 29, 2001

FILE REF: 8300

TO: NR 135 Nonmetallic Mining Advisory Committee

FROM: Dan Graff – LS/5

SUBJECT: Conclusions of October 31, 2001 Meeting

Following is my report of the main conclusions from the meeting of the NR 135 Nonmetallic Mining Advisory Committee [“NMAC”], held 10-3 at the Wisconsin Highway Patrol District One Headquarters Building in DeForest, WI.

**NMAC members present:** Ed Reesman, Ron Garrison, Gary Werner, Sue Courter, Jim Burgener, Mike Erickson, Bruce Brown, Marty Lehman.

**NMAC members not present:** Jennifer Sunstrom

**WDNR Staff Present:** Tom Portle, Dan Graff, Ryan Jakubowski, Deb Pingel, Dave Misterek, and Dave Kunelius.

**Others Present:** Scott Konkle, East Central WI Regional Planning Commission; Bill Buglass, Payne & Dolan

Main points of discussion and conclusions by the NMAC at this meeting were:

### Governance

After being briefed by Tom Portle on the NMAC’s charge under s. NR 135.51 and related codes, introductions, and being informed by Dan Graff on legal procedures/requirements it was subject to [not including ch. 15, Stats. requirements for councils or committees], the NMAC decided to govern itself as follows:

- Officers would not be selected, but the NMAC would operate among equal members using discussion, and using consensus where possible, while recognizing minority or dissenting views as appropriate.
- The NMAC would rely on the WDNR to assist it as follows: 1). provide public notice of its meetings, 2). prepare draft agendas, 3). have Tom Portle and/or Dan Graff or their successors facilitate its meetings, and 4). provide written reports of main conclusions and views from meetings.
- A quorum for NMAC meetings would be 5 members.
- Members may designate an alternate to represent them if unable to attend a meeting.

### NR 135 Start-Up, Fees and Feedback from those NMAC Members Represent

- Overall, members felt the program was up and running (helped by hard work by the WDNR regional nonmetallic mining contacts whose assistance was acknowledged) so that in almost all cases operating mines received reclamation permits by Sept. 1, 2001 as the code requires.
- There were some to-be-expected issues to work out with county/municipal regulators, most were resolved but some were ongoing.
- There is a need to encourage county and municipal governments to remove reclamation provisions

from zoning and related ordinances, as this is covered through new NR 135-authorized programs. Tom Portle agreed to work with organizations such as the Wisconsin Towns Association to develop appropriate outreach such as newsletter articles toward this end.

- Questions still remained on what regulatory authorities were expecting for **reclamation plans** and **financial assurance**, as well as how fees should be calculated particularly where quarry highwalls were present. NMAC members representing the mining industry wanted to clarify these as they affected industry costs to comply.
- Bruce Brown indicated a need to collect, organize and share information on what reclamation ordinances were enacted, and “operating” related data such as number and locations of permitted mines. No conclusions were reached on needed information and how to disseminate it, but Bruce volunteered to work on a **team to resolve this**, hopefully with WDNR staff and representatives of industry involved.
- Ron Garrison reported that there were discrepancies in fees between counties, and the NMAC recommended that high fee jurisdictions be evaluated to make sure their fees went no farther than recovering costs as authorized by code and statute. Jim Burgener volunteered to survey counties through the Wisconsin County Code Administrators group to gather this information, expected by end of November 2001, and share it with the NMAC.
- Ron Garrison also promised to try to gather facts supporting an impression that counties were using consultants as agents who were reviewing reclamation plans the same consultants prepared. All agreed this could be a conflict of interest that, if corroborated, could require review by the WDNR.

### **WDNR Outreach**

- The NMAC recognized the crucial importance in WDNR providing guidance for regulatory authorities to review nonmetallic mining reclamation plans.
- Some NMAC members were concerned that the draft reclamation plan guidance they were sent by WDNR in August 2001 included greater detail/effort on example plans than was necessary.
- The NMAC was interested in providing additional input on revised reclamation plan review guidance being prepared by the WDNR. Tom Portle agreed to share [mostly by email] a revised guidance document which has undergone extensive reorganization in which a simplified set of instructions and a plan checklist are the main part of the guidance. Other information, including an example reclamation plan are now provided in appendices. Also featured in the appendices are more information on resources available for free (often on-line) to assist operators in preparing submittals. The entire document will serve the basis for WDNR outreach directed at regulators in winter 2002.
- Industry members of the NMAC suggested that a separate outreach be undertaken by WDNR to explain the mineral registration process. [Note: Tom Portle prepared and on Nov. 1, 2001 sent a draft registration outreach document for the NMAC’s review and discussion.]

### **Further Activities**

- The NMAC will review the revised reclamation plan review guidance, send any comments on the new version to Tom Portle, and participate in a conference call on December 5 to resolve any significant issues.
- The NMAC accepted a WDNR proposal to meet again in Winter 2002 [but before the month of March] – although some members wanted a face-to-face meeting sooner as they felt issues related to industry compliance remained to be worked on. [Note: This meeting has subsequently been scheduled for Feb. 7<sup>th</sup>, 2001 in DeForest, WI]